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Letter dated 13 February 2004 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to attach three letters dated 24 December 2003, 21 January 2004 and 4 February 2004, respectively, from H.E. Mr. Isaias Afwerki, President of the State of Eritrea, to the Secretary-General, concerning peace process between my country and Ethiopia, for the information of members of the Security Council, United Nations Member States and the international community at large (see annex I-III).

These communications clearly express Eritrea's position on the matter of the "Special Envoy of the Secretary-General for Eritrea/Ethiopia". Despite the clarity of its position, however, we sense an imposition on Eritrea to accept the new mission of the Special Envoy. My Government has made a decision not to entertain any new process, political or otherwise, before the full and expeditious implementation of the 13 April 2002 decision of the Eritrea-Ethiopia Boundary Commission. President Isaias Afwerki, in all three letters to the Secretary-General, has in no uncertain terms made it clear that the introduction of another process will not serve a useful purpose.

I should be grateful if you would kindly circulate the present letter and its annexes as a document of the Security Council.

(*Signed*) Ahmed Tahir **Baduri**
Ambassador
Permanent Representative

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Annex I to the letter dated 13 February 2004 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

Letter dated 24 December 2003 from the President of Eritrea to the Secretary-General

I wish to thank you for your letter of 22 December 2003.

You will recall my recent communications to you explaining the grave situation created by Ethiopia's rejection of the Boundary Commission decision and its violations of the Algiers Peace Agreements. You will also have been informed of the issues clarified by my Chief of Staff to your Special Representative on 16 December 2003.

As you are aware, the implementation of the Algiers Peace Agreements and the decision of the Boundary Commission have become stalled for months now, with no progress whatsoever. This is solely because the Ethiopian Government has flagrantly flouted international law and breached the Algiers Peace Agreements, while it continues to occupy our sovereign territories by force. The stalemate or impasse that you alluded to in your letter has occurred simply because the international community, including your high office, has failed to take the necessary legal measures of enforcement that are warranted by the Algiers Peace Agreements.

If there really was a border dispute between Eritrea and Ethiopia, it has been settled through legal means. And if and when the legal decision on the border dispute is implemented in accordance with the Algiers Agreements, the bilateral ties between the two countries will be fully normalized to contribute positively to the stability of our region. On the other hand, one cannot realistically contemplate normalization of bilateral relations when our sovereign territories remain occupied by force and the legal decision, as well as the rule of law, continue to be trampled.

As you will agree with me, the matter cannot be a subject of mediation. A new mechanism to substitute the Algiers Peace Agreements and the decision of the Boundary Commission will not only be illegal but will also create a dangerous precedent. Indeed, we have no legal right to indulge in a new mechanism.

The only way that we can extricate ourselves from what you have termed as a stalemate or impasse is when the international community compels Ethiopia to respect its treaty obligations and the rule of law and ensures the implementation of the Algiers Peace Agreements.

In conclusion, I wish to urge you again to shoulder your responsibilities to ensure the respect of international law and the rule of law.

(*Signed*) Isaias **Afwerki**

Annex II to the letter dated 13 February 2004 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

Letter dated 21 January 2004 from the President of Eritrea to the Secretary-General

Allow me first to express my regrets for my inability to talk with you on the phone in the past couple of days. I have thought it best to convey to you, through this letter, my thoughts on the critical issues regarding the peace process, as it may not indeed be possible to address them in a telephone conversation in addition to the obvious practical difficulties.

As you will recall, I had tried to underline the grave developments in the peace process that ensued from Ethiopia's rejection of the Boundary Commission decision through my letters to you of 27 October, 13 November and 24 December 2003. Let me avail of the occasion to stress again that we are legally bound not to countenance any "mechanism" or "approach" that aims to substitute the Boundary Commission and the implementation of the decision of the Boundary Commission. My response to your proposal to despatch a special envoy, which remains valid, is rooted in these considerations.

We believe that the only constructive way ahead is for the United Nations and the international community to shoulder their obligations to ensure the respect of the rule of law and the inviolability of international treaties through the full and expeditious implementation of the Boundary Commission decision. We fail to see the wisdom of, and rationale for, focusing on tangential issues and arrangements while the demarcation of the border, which has been delayed by more than one year with detrimental consequences for regional peace and stability, is relegated to the back burner.

It is not surprising to see the Government of Ethiopia toy with deceptive gestures of "good will" in order to disguise its rejection of the decision of the Boundary Commission, its flouting of the rule of law and its invasion of our sovereign territories. Ethiopia is in effect telling us to "look sideways and applaud its decision to allow direct flights ... reopen its embassy ... etc.", while it continues to reject the decision of the Boundary Commission, violate the rule of law and occupy our land.

As I have expressed to you in my previous communications, this roundabout approach will not get us anywhere. On the contrary, it carries the risk of compounding an already precarious situation. As you will agree with me, we cannot be expected to short-change our sovereignty or accept the forceful occupation of our land for the sake of resuscitating the normal ties that exist between two neighbouring countries. This is neither legally nor morally acceptable. I therefore urge you to use the authority of your office to ensure the full respect of international law and thereby create the conditions for a just and sustainable peace.

(*Signed*) Isaias **Afwerki**

Annex III to the letter dated 13 February 2004 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

Letter dated 4 February 2004 from the President of Eritrea to the Secretary-General

I wish to thank you for your letter of 30 January 2004 that I received yesterday.

I regret to have to bore you with repetitive messages. Allow me nonetheless to express my opinion on the points underlined in your letter.

As you will agree with me, the implementation of the Algiers Agreements in accordance with the decision of the Boundary Commission is the legal mandate of the Boundary Commission alone. Furthermore, the Commission long ago issued detailed demarcation directions and specific time frames for implementation. The whole process should have been completed successfully in November 2003. Accordingly, there are no new issues that warrant a new round of discussions or which require a special envoy.

The problem lies in the violation of the Algiers Agreements by Ethiopia, its rejection of the decision of the Boundary Commission and its wilful obstruction of the implementation of the decision. In the circumstances, we expect your good offices to be directed towards Ethiopia with the aim of ensuring the respect of the rule of law and securing Ethiopia's compliance with the provisions of the Algiers Agreements and the decision of the Boundary Commission. Eritrea, on the other hand, continues to fully respect the Agreements it has signed. It has accepted in good faitn the decision of the Boundary Commission and dutifully fulfilled all its legal obligations so as to ensure the speedy demarcation of the boundary in accordance with the demarcation directions of the Commission.

In the light of these facts, we find it fruitless to depart from this legal stance and engage in what will essentially be a public relations controversy concerning whether "we accept or reject" your special envoy. This approach will lead us nowhere but only entangle us in a web of intractable complications.

We cannot, likewise, embrace a new process or "mechanism" on the basis of the diplomacy of the special envoy. Both the Agreements and our legal obligations preclude this eventuality.

I do not wish to waste your time further by dwelling on "dialogue" since I have explained our views on this matter previously. Improvement of our bilateral ties with Ethiopia is predicated on mutual respect and compliance with the rule of law. We cannot thus be requested to ignore this basic prerequisite and entertain such an agenda at this point in time when the peace agreements remain violated and our territory forcibly occupied.

I appeal to you to exert efforts to ensure the implementation of the Boundary Commission decision without delay and thereby uphold the integrity of the Agreements and the respect of international law.

(*Signed*) Isaias **Afwerki**